

REMARKS

In the office action, claims 11-20 were allowed. Claims 1,4, and 6 were rejected under 35 U.S.C. 103a as being obvious over Murray (2,206,234) in view of. Champel (FR 2,594,344). Claims 2 and 3 were rejected under 35 U.S.C. 103a as being obvious over Murray (2,206,234) in view of. Champel (FR 2,594,344) and Barefoot(6,581,919). Claims 7,10 were rejected under 35 U.S.C. 103a as being obvious over Murray (2,206,234) in view of. Champel (FR 2,594,344). and Rowan (5,514,054) and Barefoot(6581,919).

Examiner further objected to applicant's referring to items without their complete descriptions. The claims have been amended to overcome Examiner's objection to form and to better define the invention. No new matter has been added.

103(a) argument:

It is respectfully submitted that the application as herein claimed in amended form cannot be rejected for want of a prima facie showing of obviousness.

It is respectfully submitted that the invention as herein claimed in amended form is unobvious over the cited prior art for the following reasons:

The scope and content of the prior art:

'234 teaches a transverse member 7 that fastens to the leg. Member 7 is fixed to elongate bar 6 that has the foot platform 3 affixed at its lowermost end. Any of Examiner's combinations would put a boot on the platform 3. '234 has an arch feature 3a that will fit a left or a right foot. That would be destroyed if it were replaced with a boot of the secondary references cited. It would then not function as Murray intended. This is evidence of unobviousness

"It is yet another object that the apparatus provide means for wholly or partially unloading the patient's weight and ground reaction forces by transfer of the load to the upper calf and tibia." (page 1, last sentence).

"The '234 foot support 3 is supported some distance above the cushion member 1 and base portion 2a by means of L shaped lugs 6a secured on the sides of straps 6" (col 2, line 44). The tubular members 5 that hold springs 4 are affixed to the straps 6 and not to the subfloor. The springs 4 are compressed by the round frame portions 2b, 2c during a step. What Examiner erroneously terms "a pair of elongate tubular members (2b,2c)" are rods, not tubes. Absent from the prime reference '234 is the claimed element "a pair of elongate tubular elements affixed to, and extending upwards from, the subfloor portion". The tubular elements 5 of '234 in which the springs 4 are housed are

nor affixed to subfloor 2 as applicant claims. They are affixed instead to the bars 6 by "means of L-shaped lugs 6a secured on the sides of the straps 6".(col 2, line 46). They ride up and down on upright members 2b and 2c that are affixed to the subfloor 2. " to permit movement of the members 3c relative to the members 2b and 2c with the compression of the spring 4" (col.3, line 19). This is opposite teaching. It also is not "constructed so that the elongate elements may be removed from the remainder of the apparatus by unfastening the boot from the foot and lifting them from the tubular elements".

Also absent from Examiner's proposed combination of mounting a boot of '344 on the platform 3 is the claimed element "the boot portion slidably mounted on the exterior of the tubular members for free vertical translatory motion thereon". By contrast proposed combination fixes the boot portion to platform 3 that is fixed to the tubular member 5 by lugs6a, so it cannot be slidably mounted on the exterior of the tubular member which is 5, not 2a. this is opposite teaching.

Also absent from proposed combination is claim element "a spring element freely movable within each elongate tubular member". As can be clearly seen in Fig. 4 of '234, what Examiner calls "tubular member 2b" is within spring 4. this is opposite teaching.

In summary, claimed elements are absent from the combination proposed by the Examiner. This is evidence of unobviousness.

Since the combination lacks elements of the claims, is opposite teaching, and does not operate as intended, it is therefore unobvious. In re Clinton, 527 F.2d, 188 USPQ365 (CCPA 1976).

The teaching or suggestion to make the claimed combination and a reasonable expectation of success must both be found in the prior art, and not based upon Applicant's disclosure. In re Vaack, 947 F.2d 1438 (Fed. Cir. 1991).

If the proposed modification or combination of the prior art would change the principal of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F.2d 810, 123USPQ 349(CCPA 1959).

The showing of suggestion to combine must be clear and particular. The Examiner has made no such showing. In re Dembicziak, 175 F.3d 994, 50USPQ 2d. 1614(Fed. Cir. 1999).

The references cited, but not relied upon have been studied. They do not teach or suggest the claimed invention either alone or in combination.

In view of the foregoing, allowance of the claims and passing of the application to issue is respectfully solicited. If there are any comments, questions or suggestions to be made, the examiner is respectfully invited to telephone the applicant's representative at the telephone number given below for prompt disposition of any still outstanding matters. Reconsideration is respectfully requested.

RESPECTFULLY SUBMITTED,

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